

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7338

BILL NUMBER: SB 328

NOTE PREPARED: Jan 3, 2005

BILL AMENDED:

SUBJECT: Penalty for Open Door or Public Records Violation.

FIRST AUTHOR: Sen. Gard

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a person may bring an action for the imposition of a civil penalty against an individual who, as a member of a governing body, participates in a meeting that the individual knows violates the Open Door Law. It also provides that a person may bring an action for the imposition of a civil penalty against an individual who knowingly violates the Public Records Law.

The bill provides that a court may impose a civil penalty of not more than \$1,000 against an individual for a violation of the Open Door Law or Public Records Law, and that any civil penalties must be deposited in the state General Fund. The bill also provides that a court may award attorney's fees to: (1) a prevailing plaintiff; or (2) a defendant who proves the action was frivolous and vexatious.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Public Access Counselor:* Persons concerned with possible violations of the state's Open Door Law may ask the Public Access Counselor for an informal inquiry response or an advisory opinion prior to seeking remedy in a court. Any additional administrative impact on the Counselor as a result of this provision could presumably be absorbed using existing resources.

Explanation of State Revenues: There are no data available to indicate how many actions for the imposition of a civil penalty may be brought under the bill. If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record, or 55% if the case is filed in a city or town court. Additionally, the state General Fund would receive revenue from

civil penalties of up to \$1,000.

Explanation of Local Expenditures:

Explanation of Local Revenues: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected:

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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